

Decision 04-08-029 August 19, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion into the Operations and Practices of the Conlin-Strawberry Water Co. Inc. (U-177-W), and its Owner/Operator, Danny T. Conlin; Notice of Opportunity for Hearing; and Order to Show Cause Why the Commission Should Not Petition the Superior Court for a Receiver to Assume Possession and Operation of the Conlin-Strawberry Water Co. Inc. pursuant to the California Public Utilities Code Section 855.

Investigation 03-10-038
(Filed October 16, 2003)

ORDER EXTENDING STATUTORY DEADLINE

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline. In this proceeding, the 12-month deadline for resolving this matter is October 15, 2004. The proceeding cannot be resolved by that date without affecting both the parties' rights to call and cross-examine an important witness and the Presiding Officer's need for necessary evidence available only from that witness.

Jim Pingree (Pingree), who has been the operator of the respondent water system, was scheduled to testify on July 14, 2004. Due to illness, Pingree was unable to travel to San Francisco on that date; and he remains unable to travel until approved by his physician. His delay will likely delay the completion of the evidentiary hearing for several weeks. His testimony is necessary to learn about

the service record of the company and staffing for future operations. While the parties have not agreed on an alternative method for examining the witness, such as by deposition or telephone, they both support the extension of the statutory deadline in this proceeding.

Waiver of Comment Period

Under Rule 77.7(f)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable Pub. Util. Code § 1701.2(d) statutory deadline for public review and comment is being waived.

Findings of Fact

1. This proceeding was initiated on October 16, 2003.
2. Based upon the 12-month statutory deadline, this proceeding must be resolved on or before October 15, 2004, unless this date is extended.
3. The current schedule allows insufficient time to resolve this proceeding before the 12-month statutory deadline runs.
4. This proceeding cannot be completed within the 12-month period due to the illness of an important witness whose testimony is necessary for the Presiding Officer to reach a decision.
5. No party opposes the extension of the 12-month statutory deadline in this proceeding.

Conclusion of Law

The 12-month statutory deadline imposed by Pub. Util. Code § 1701.2(d) should be extended, effective immediately, until further order.

IT IS ORDERED that the 12-month statutory deadline in this proceeding, October 15, 2004, is extended until further order.

This order is effective today.

Dated August 19, 2004, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners